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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/750,289	12/31/2003	Greg Gillis	29105.00	9185

22465 7590 01/14/2005

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EXAMINER

SWIATEK, ROBERT P

ART UNIT	PAPER NUMBER
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3643

DATE MAILED: 01/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/750,289

Applicant(s)

GILLIS ET AL.

Examiner

Robert P. Swiatek

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 21 October 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-7, 11-13 and 21-24 is/are allowed.
- 6) ☒ Claim(s) 8-10, 14-18, 25, 27 and 28 is/are rejected.
- 7) ☒ Claim(s) 19, 20 and 26 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

### DETAILED ACTION

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 14, 15, 17, 18, 25, 27, 28 are rejected under 35 U.S.C. 102(b) as being anticipated by So (US 5,666,908). The So patent discloses a method of training an animal including the steps of providing a receiver with a memory 231, modulating radio signals 112 with identity and stimulation level codes (column 3, lines 46-48, of So), utilizing the receiver to receive the radio signals 112 from a transmitter 110, demodulating the signals to acquire the identity and stimulation codes (column 4, lines 17, 18, of So), coupling the received codes to a microprocessor 230 (column 4, lines 19, 20, of So) to determine whether an electrical stimulation is required (the presence of the codes, in essence, serving as a “request” for electrical stimulation, the absence of at least the identity code presumably resulting in a denial of stimulation), employing an oscillator 232 and control program 250 in memory 231 to generate a train of voltage pulses of width PW—determined by the stimulation level code (column 4, lines 39-41, of So)—and using the voltage pulses thus obtained to create current pulses, which are applied to animal collar electrodes.

Claims 8-10, 14-16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which

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applicants regard as the invention. In claim 8, line 3, "said receiver" lacks a prior antecedent basis. It is unclear whether claim 14 is a method or article claim—the preamble is drawn to an apparatus ("In an apparatus for training an animal . . .") while the body of the claim recites a series of method step limitations that appear to constitute the patentable novelty; additionally, dependent claim 15 refers to the "method of Claim 14" whereas dependent claim 16 recites the "apparatus of Claim 14." The claims must be drawn to one of a method or an apparatus. In claim 15, line 2, "said coded signal" lacks a prior antecedent basis.

Claims 8-10 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.


Claim 16 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Claims 19, 20, 26 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The patents to So (US 6,135,060) and Duncan et al. (US 6,170,439 B1) have been cited to provide additional examples of animal training devices.

RPS: 0703/308-2700

11 January 2005

  
ROBERT P. SWIATEK  
PRIMARY EXAMINER  
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